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In the Supreme Court

OF THE
United States

OCTOBER TERM, 1911

No. 159

J. R. MASON,

Petitioner,

VS.

MERCED IRRIGATION DISTRICT,

Respondent.

BRIEF FOR RESPONDENT, IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI
to the United States Circuit Court of Appeals
for the Ninth Circuit.

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Table of Authorities Cited

	Page
Bankruptcy Act, Sec. 83(f) (11 U.S.C.A. Sec. 403).....	2
Mason v. Anderson-Cottonwood Irrigation District, 126 F. (2d) 921	2
Mason v. Merced Irrigation District, 126 F. (2d) 920.....	2

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**BRIEF FOR RESPONDENT, IN OPPOSITION TO
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to the United States Circuit Court of Appeals
for the Ninth Circuit.**

The petition for certiorari herein shows that the interlocutory decree confirming the plan of composition proposed by respondent has been entered and become final and that respondent has duly and faithfully carried out all of the requirements of the interlocutory decree. It is not even suggested by argument or otherwise that respondent has failed in the slightest respect to fulfill the conditions of the plan of composition or

the interlocutory decree. Therefore, pursuant to the governing statute (Sec. 83f of the Bankruptcy Act, 11 USCA, Sec. 403)¹ respondent is entitled to a final decree discharging it from all debts and liabilities dealt with in the plan confirmed. Obviously the only thing determined by the final decree is that the District has carried the interlocutory decree into effect and that fact is admitted by the petition here.

In the companion case of *J. R. Mason v. Anderson-Cottonwood Irrigation District*, No. 1198, certiorari was denied by this Court June 1, 1942. That case was argued in the Circuit Court of Appeals contemporaneously with the *Merced* case and both cases were decided by the Circuit Court on the same day.² The petition for certiorari in the *Anderson-Cottonwood* case presented substantially the same questions presented here.

¹Final Decree—If an interlocutory decree confirming the plan is entered as provided in subdivision (e) of this section, the plan and said decree of confirmation shall become and be binding upon all creditors affected by the plan, if within the time prescribed in the interlocutory decree, or such additional time as the judge may allow, the money, securities, or other consideration to be delivered to the creditors under the terms of the plan shall have been deposited with the court or such disbursing agent as the court may appoint or shall otherwise be made available for the creditors. And thereupon the court shall enter a final decree determining that the petitioner has made available for the creditors affected by the plan the consideration provided for therein and is discharged from all debts and liabilities dealt with in the plan except as provided therein, and that the plan is binding upon all creditors affected by it, whether secured or unsecured, and whether or not their claims have been filed or evidenced, and, if filed or evidenced, whether or not allowed, including creditors who have not, as well as those who have, accepted it."

²*Mason v. Anderson-Cottonwood Irrigation Dist.*, 126 F. (2d) 921;

Mason v. Merced Irrigation Dist., 126 F. (2d) 920.

Since the only purpose of the final decree is obviously to adjudicate that the plan of composition has been carried into effect as provided in the interlocutory decree, petitioner is really seeking to overthrow a judgment which has become final. Moreover, all matters raised by petitioner were fully argued and considered and resolved against him in the long protracted proceedings which terminated in the interlocutory decree. Further, no interference with governmental power is shown and none exists.

The petition for certiorari wholly fails to show any reason for issuance of the writ. There is no real showing of any conflicts among the circuits on the point presented, no showing of any grave question of vital importance to the public or any other showing which would even colorably justify the writ.

The petition should be denied.

Dated, Sacramento, California,
September 30, 1942.

Respectfully submitted,

STEPHEN W. DOWNEY,

Attorney for Respondent.